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RICHARD W. WICKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES
DISTRICT COURT

NORTHERN CALIFORNIA

Charles Wang,) Case No.: C08-2692
Petitioner,) Presiding Judge: Phyllis J. Hamilton
v. Sonia Smith, Kenneth Shapiro) Petitioner's Statement to
Amir Alem, M. Zen) Show Cause Regarding Failure
Respondent) to Exhaust

On August 5th, Honorable Judge Phyllis J. Hamilton issued
an order for Petitioner to Show Cause.

United States Code Annotated, USC § 2254 stated:

(b)(1) An application for a writ of habeas corpus on behalf
of a person in custody pursuant to judgement of a state
court shall not be granted unless it appears that -

(A) the applicant has exhausted the remedies available
in the courts of State, OR

(B)(i) there is an absence of available state corrective
process, OR

(ii) circumstances exist that render such process
ineffective to protect the rights of the applicant.

Part A stated the petitioner needs to exhaust available state
remedies. During 2007's first alleged "probation violation" and
later wrongful conviction, I was prevented from purchasing
United States postal stamps, (against Facility Rulebook)
to file legal paper for more than two months. I was inflected
five (5) times doing nothing different from others, (I had
no prior records what so ever before this, my first 28 years in

1 this country, nor anywhere else). After I received a partial reversal
 3 from Sixth District Appellate Court (not even complete transcript
 5 was provided to appeal's attorney by asst. D.A.), I filed an notice
 of appeal to state Supreme Court in San Francisco. I was also told by
 a "Trustee" not to appeal while in jail.

7 Since I did not hear from the State Supreme Court, later I
 went to San Francisco State Building across street from the Federal
 Building to find out about the status of my Petition for Review.
 9 I was told it never got there. I believe the statute of
 limitation on filing this petition is only a couple weeks. I didn't
 11 know any other state judicial remedy after that. This sequence
 of judicial process was successfully broken by the county jail
 13 events (listed above). I still don't know how to continue from there,
 except in the future, 1) out-going legal mail should be registered
 15 (incoming mail is registered), 2) Trustees should receive basic
 training to report any possible coercion effort, 3) instructions should
 17 be given to county employees again about stamp/stationary purchases^{etc.}

In Federal Habeas Corpus Petition form, "Other" is listed after
 19 state Supreme Court. Since "other" is not a clear indication of
 what is the next required event. If state Habeas Corpus petition
 21 is necessary, it should be stated.

For these elements out of my control, I believe there were
 23 no more available state remedy, thus compliance of the exhaustion
 requirement is not possible. This petition should not be dismissed
 25 based on the above reason, or the other two exceptions, i.e (B)(i)
 & (ii) listed below:

Part (B)(ii) there is an absence of available state corrective process.

a. U.S. Postal fraud is not within state's jurisdiction. Not only I was denied postage stamps. My legal mail has been opened; outgoing legal mail missing. There is a method within the facility to generate "infractions" using U.S. Postal regulation as a cover. All these needs to be investigated and prevented.

b. State of California does not have a pro-active corrective process to uphold state law. Other than CHP (Highway Police), state does not have investigative agency (Not known to me). Judicial officers' self interest (jobs), county's own perceived interest can and is in conflict with upholding state law. California's economy rivals top nations. Need for investigative agency should be a top priority.

Due to demographic changes, fear in God is not enough to deter dishonesty. State's education has not yet advanced to include ethic training. This lack of check and balances can and has lead to copy cat crimes (like this original case). I know of at least two more similar cases, same motivation, citizens of different national origin been wrongfully convicted. One moved back ^{to Hong Kong}. One disappeared (a Ph.D. from MIT, lived in this county over 30 years). Justice delayed, or denied will generate more crime, more prison population.

At August 25th probation hearing, an individual made numerous statements contrary to the truth. Knowing her business share common interest with the county and there is little or no consequences. Outrages claims have been made only to protect their common interest. If there is proper investigation, the motive can be quickly revealed. Using termination of court required class as a method of coercion can be stopped.

Even though some of the tactics like using "victims safety" to scare public may work for those don't know the whole truth.

1 Truth is the divorce was over two years ago. There is no contact
 3 other than in courts, and previous two years, I had only minimum
 5 contact only for transporting my teenage son. The co-owner of the
 7 business still use the buzz word "victim safety" to generate termina-
 9 tion report, resulted probation violation (wrongful). A quick investigation
 11 will show the true intent, so it won't happen again. Same for the
 13 original investigation, or lack of it.

15 Part (B)(ii) circumstances exist that render such process
 17 ineffective to protect the rights of the applicant.

19 Current process is ineffective to protect individual's rights. How
 21 can pre-trial and trial employ the same judge? How can incomplete
 23 transcripts went to Sixth District Appellate Court without any objection?
 25 (happened when I was put in jail for first alleged probation violation).
 While in jail, my petition for Review never got to State Supreme
 court. Since there is not a separate process to ensure Due Process
 has been followed, AND judicial process only involve upholding
 state law, there is not yet a complete process to effectively protect
 applicant's right. Events described in Part (A) all exists and there
 is no counter-measure. It's further hampered by state does not
 have its own investigative agency.

Based on above reasons, the petition should not be dismissed.

Signed under penalty of perjury,

August 26, 2008.

S. C. WANG
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